Case[3], Palles, C.B. considered that this should be done. Logically one should either regard the articles in their entirety or disregard them altogether. The Courts have, however, taken a less logical but more practical line intermediate between the two positions. Provisions in articles giving a large share of the profits to those responsible for "management" are not uncommon even in the case of public companies. Some years ago a single management share in a company operating in Singapore, of the nominal value of £1, had to be bought out for £100,000. I do not think that it would be reasonable to disregard the articles in these cases even if the question were still open.

Appeal allowed;
Cross-appeal dismissed.

Solicitors: *Bannon & Bailey; Shearn, Delamore & Co.*

ONG PHAIK GAN (w) & ORS. v. CHO BENG SOH (w)

[O. C. J. (Wilson J.) May 16, 1955]

[Penang — Civil Suit No. 257 of 1954]

Landlord and Tenant — Trustees — Claim for possession of premises where family "Sin Choo" were housed — Occupier whether licensee or tenant — Sums described as rent may not be rent.

The plaintiffs in this case, as trustees, were owners of a family house. They claimed possession of the premises from the defendant. The defendant's husband, who had since died, occupied the house, and in consideration of his occupation it was his duty to clean and maintain the "Sin Choo" of the plaintiffs' family which were placed in the house. Further consideration of $20 per month was paid by the defendant's husband and, subsequently by the defendant for occupation for which receipts were issued by the plaintiffs every month and the sum was described therein as rent. The plaintiffs were always entitled to access to the house for the purposes of ancestral worship.

Held: (1) the defendant's husband was only a licensee; (2) the mere fact that sums were described as rent did not prove that they were rent if, in fact, they were not.

CLAIM for possession.

Eusoffe Abdoolcader for the plaintiffs.

Lim Ewe Hock for the defendant.

Cur. Adv. Vult.

Wilson J.: — The plaintiffs are, as trustees, the owners of a house No. 35, Noordin Street, Penang, and hold it as a family house upon and subject to the trust mentioned in the deed of trust. They claim possession of the premises from the defendant. The trust was created for a period of twenty-one years which expired on the 18th May, 1954, and they now wish to sell the premises with vacant possession. The defendant's husband went into occupation of the house in the year 1933. He died about five years ago and the defendant has remained in occupation ever since. On the 13th January 1954, the plaintiffs' solicitors, by letter, requested and required the defendant to quit and deliver up peaceful possession of the premises within one month.

The sole question for consideration in this case is whether or not the defendant's husband was a tenant or licensee of the premises. Either before he went into occupation or shortly afterwards the "Sin Choo" of the plaintiffs' family were placed in the house. It is quite clear that whether it was before or after, he was always aware of the fact that in consideration of his occupation it was his duty to clean and maintain the "Sin Choo". It is, of course, unfortunate that the defendant's husband is dead and that the defendant has no knowledge of the original transaction and depends entirely on what her deceased husband told her. The amount paid by the defendant's husband and, subsequently, the defendant for occupation was small. The case is complicated by the fact that receipts were issued every month in respect of the $20 paid per month and the $20 is described therein as rent. The mere fact that these sums are described as rent does not, of course, prove that they were rent if, in fact, they were not.

On the facts of the case I have come to the conclusion that the defendant's husband was only a licensee of the premises, and in these circumstances I find that it is immaterial that fresh receipts were issued in respect of what was described as rent after the notice to deliver up possession was given.

It is to be noted that I am satisfied that the plaintiffs, by whatever agreement they had with the defendant's husband, were entitled to access to the house for the purposes of ancestral worship at any time.

There must be judgment for the plaintiffs for the possession of No. 35, Noordin Street, Penang, and for mesne profits at $20 a month from the 1st June, 1954, until the date of possession, and for the costs of this action.

Claim allowed.

Solicitors: *Ong Huck Lim & Co.; Lim, Lim & Oon.*

KHOO TECK YAM v. PUBLIC PROSECUTOR

[A. Cr. J. (Buhagiar J.) April 13, 1955]

[K. L. — Criminal Appeal No. 20 of 1955]

Road Traffic — Motor Vehicles Commercial Use Regulations, 1945, reg. 7 — Haulage permit for carriage of goods — Motor Vehicles Third Party Risks Regulations, 1946, reg. 3(1) and (2) — Burden of proof — Evidence Ordinance, 1950, s. 106.